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FISCAL IMPACT STATEMENT

LS 6093

BILL NUMBER: HB 1027

NOTE PREPARED: Dec 1, 2011

BILL AMENDED:

SUBJECT: Sex Crime Statute of Limitations.

FIRST AUTHOR: Rep. Cheatham

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill eliminates the statute of limitations for criminal actions involving certain sex crimes.

Effective Date: July 1, 2012.

Explanation of State Expenditures: The effect on state expenditures is uncertain, but LSA expects any added number of offenders will be minimal.

Under current law, the following crimes have a statute of limitations that expires when the victim reaches 31 years of age: Class A, B, C, or D felonies involving child molesting, vicarious sexual gratification, child solicitation, child seduction, and incest.

Also under current law, certain Class B, C, and D felonies must be prosecuted within five years after the commission of an act unless DNA evidence is available.

Certain Sex Crimes Against Children – Under current law, certain sex crimes involving children cannot be prosecuted if the victim reaches the age of 31. As an example, if a victim was 12 when the crime occurred, the crime may be prosecuted within the next 19 years before the victim reaches 31.

This bill eliminates the statute of limitations for the following crimes:

- Child molesting
- Vicarious sexual gratification
- Child solicitation

- Child seduction
- Incest

Currently, 19 states have no statute of limitations on some or all offenses against children.

The following table lists the sex crimes against children that have a statutory limit that would be removed.

| <u>Crime and Felony Level</u> | <u>Range in Ages of Victims</u> | <u>Possible Prison Sentence Range</u> | Offenders Committed to DOC by CY | | |
|------------------------------------------------------|--------------------------------------------|--------------------------------------------------|---------------------------------------------|--------------------|--------------------|
| | | | <u>2008</u> | <u>2009</u> | <u>2010</u> |
| Child Molesting (Class A, B, C) | 14 and younger | 2 to 50 years | 380 | 404 | 369 |
| Child Solicitation (Class A, B, C, D) | 16 and younger | 6 months to 50 years | 25 | 26 | 28 |
| Child Seduction (Class D) | 16 to 18 | 6 months to 3 years | 3 | 8 | 3 |
| Incest (Class B and C) | 16 and younger | 2 to 20 years | 14 | 19 | 10 |
| Vicarious Sexual Gratification (Class A, B, C, D) | 16 and younger | 6 months to 50 years | 6 | 4 | 4 |

Other Sex Crimes with Five-Year Statute of Limitations – Other than sexual misconduct with a minor, these other sex crimes involve victims who are adults. Under current law, a prosecuting attorney may file a criminal action within five years of the commission of the crime. As proposed, there would be no statute of limitations. It is unknown if more cases would be prosecuted and more commitments would occur.

| <u>Felony Category</u> | <u>Crimes Include:</u> | <u>Possible Prison Sentence Range</u> | Offenders Committed to DOC by CY | | |
|-----------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------|---------------------------------------------|--------------------|--------------------|
| | | | <u>2008</u> | <u>2009</u> | <u>2010</u> |
| Class B Felonies | Rape, Criminal Deviate Conduct, Sexual Misconduct with a Minor | 6 to 20 years | 132 | 131 | 141 |
| Class C Felonies | Sexual Misconduct with a Minor, Sexual Battery, Child Exploitation, Unlawful Employment near Children by a Sexual Predator | 2 to 8 years | 94 | 109 | 90 |
| Class D Felonies | Sexual Misconduct with a Minor, Performing Sexual Conduct in the Presence of a Minor, Sexual Battery, Possession of Child Pornography, Sex Offender Internet Offense, Unlawful Employment near Children by a Sexual Predator, Sex Offender Residency Offense | 6 Months to 8 Years | 84 | 72 | 79 |

Assuming offenders can be housed in existing facilities with no additional staff, the marginal cost for medical care, food, and clothing is approximately \$3,317 annually, or \$9.09 daily, per prisoner. However,

any additional expenditures are likely to be small.

Explanation of State Revenues: *Penalty Provision:* If additional court cases occur and fines are collected, revenue to both the Common School Fund (from criminal fines) and the state General Fund (from court fees) would increase. The maximum fine for any felony is \$10,000. However, any additional revenues would likely be small.

Explanation of Local Expenditures: *Penalty Provision:* If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. However, any additional expenditures would likely be small.

Explanation of Local Revenues: *Penalty Provision:* If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from court fees. However, the amounts would likely be small.

State Agencies Affected: Department of Correction.

Local Agencies Affected: Prosecuting Attorney, trial courts with criminal jurisdiction, local law enforcement agencies.

Information Sources: Offender information system, Department of Correction; Indiana Prosecuting Attorneys Council

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